

EXHIBIT A

Cooney v Saybrook et al

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

SUSAN COONEY,

Plaintiff

Exhibits: 88-112

VS
SAYBROOK GRADUATE SCHOOL
AND RESEARCH CENTER, and
MAUREEN O'HARA, Individually,
DefendantsDOCKET NO.
04 11572 JLT

DEPOSITION of DR. KAREN SCHWARTZ, a Witness called by Counsel on behalf of the Plaintiff, taken pursuant to the applicable provisions of the Massachusetts Rules of Civil Procedure, before Arlene Boyer, a Certified Court Reporter and Notary Public in and for the Commonwealth of Massachusetts, at the Division of Professional Licensure, 239 Causeway Street, Boston, Massachusetts, on Friday, April 28, 2006, commencing at 10:30 a.m.

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APPEARANCES:

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REPRESENTING THE DEFENDANTS

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Division of Professional Licensure

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REPRESENTING DR. KAREN SCHWARTZ

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- 1 Q Was she the administrative assistant? 57
- 2 A Yes.
- 3 Q Did the board itself receive a copy of all these
- 4 public comments?
- 5 A Yes. May I amend that?
- 6 Q Sure.
- 7 A I do not remember if copies were made of these.
- 8 The board would have seen the folder.
- 9 Q Is it fair to say that what you've produced in
- 10 response to the deposition subpoena, which
- 11 includes Exhibits 95 and 96, were part of the
- 12 public comments folder that was available to the
- 13 board?
- 14 A Yes.
- 15 Q Would it appear from the nature of this document
- 16 and the fact that it was in the public comments
- 17 folder that the board itself received notice that
- 18 Saybrook, through its interim president, was
- 19 objecting to the proposed regulation on completed
- 20 in residence?
- 21 A Yes.
- 22 Q These letters, Exhibits 95 and 96, are addressed
- 23 to David Ramsey and Robert Coutu. Was Mr. Coutu
- 24 the chair of the Board of Registration of

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- 1 Psychologists in February 1996? 58
- 2 A Yes.
- 3 Q Do you know when he stepped down as chair?
- 4 A July of '97.
- 5 Q Who became chair after Mr. Coutu?
- 6 A Dennis Norman.
- 7 Q David Ramsey is also a psychologist?
- 8 A I have never heard of David Ramsey.
- 9 Q So you don't know if David Ramsey was ever
- 10 affiliated with the Board of Registration of
- 11 Psychologists?
- 12 A I don't think David Ramsey was ever affiliated
- 13 with the Board of Registration of Psychologists as
- 14 a board member. I don't know whether he ever
- 15 worked for the agency, Division of Professional
- 16 Licensure. I don't know who he is. He was a who
- 17 is this guy.
- 18 Q Did you ever have any discussions with Dr. Coutu
- 19 about Saybrook specifically?
- 20 A No.
- 21 Q Do you know if Dr. Coutu would have been present
- 22 when Saybrook candidates for licensure were
- 23 discussed?
- 24 MS. GARCIA: Objection.

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- 1 A I don't recall Saybrook candidates for licensure 59
- 2 being discussed.
- 3 Q Do you recall there being a discussion at any
- 4 board meetings about Dr. Richard Francis?
- 5 A Yes.
- 6 Q Do you recall there being any discussions at board
- 7 meetings about Dr. John Burke?
- 8 A No.
- 9 Q The fact that you recall Dr. Francis was discussed
- 10 at a board meeting, would that affect your prior
- 11 answer as to whether you recall Saybrook students
- 12 being discussed at board meetings?
- 13 A Yes.
- 14 MS. GARCIA: Objection.
- 15 Q So it's fair to say that --
- 16 A But it's not Saybrook students. It's an
- 17 applicant. Applicants are -- were at the time
- 18 reviewed individually, not as representatives of a
- 19 particular program. Each application got an
- 20 individual review, and the board had a standard
- 21 policy, which was we review applicants, not
- 22 programs.
- 23 Q Can you recall any other Saybrook graduates that
- 24 were reviewed by the board between 1995 and 1997?

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- 1 A Any other? What do you mean by any other? 60
- 2 Q Any other graduates of Saybrook whose application
- 3 --
- 4 A Other than whom?
- 5 Q Other than Richard Francis.
- 6 A Richard Francis was much later.
- 7 Q Do you recall any Saybrook graduates whose
- 8 application for licensure as a psychologist was
- 9 discussed by the board during the period of 1995
- 10 through 1997?
- 11 A I don't think there were any.
- 12 Q Do you recall any Saybrook graduates whose
- 13 application for licensure as a psychologist was
- 14 discussed by the board between 1997 and 2000 other
- 15 than Richard Francis?
- 16 A No.
- 17 Q What decision was made about the proposed
- 18 regulation that appears as Exhibit 92 after the
- 19 public hearing in January of '96?
- 20 A I'm not sure if you would call it a decision, but
- 21 I believe the board chose to put forward a
- 22 different regulation, as I explained.
- 23 (Exhibit Number 97, Letter from
- 24 William Wood to Union Institute

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1 Q When you say it's "a fraction of an application
2 packet," is that because it's the application form
3 itself with no supporting material?
4 A Correct.
5 Q If you could turn to the last page of the
6 document, it appears that this application was
7 submitted on or about September 24, 2000.
8 MS. GARCIA: Objection.
9 A Actually, you can't tell from that date. There's
10 another piece of the application that tells you
11 when we received it, and that is the application
12 file itself. It has the date that we received it.
13 Q Is that date on the cover of the file?
14 A Yes.
15 Q Do you know if the cover was produced?
16 A The cover was produced.
17 MR. BORRE: The cover was produced.
18 A Because a lot of people fill these things out and
19 then, you know, just take forever to send them in.
20 MR. BORRE: This is the original cover.
21 If you want to --
22 MR. MORENBERG: I do have that. Hold
23 on. Let's just go off the record for a second.
24 (Off the record.)

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1 (Exhibit Number 106, Cover of
2 Richard Francis's Application, was
3 Marked for Identification.)
4 Q I'm putting before you what's been marked as
5 Exhibit 106 for identification. Do you recognize
6 this document?
7 A Yes.
8 Q What is this?
9 A This is the cover of Richard Francis's
10 application.
11 Q Does this document refresh your recollection as to
12 the date when Dr. Francis submitted his
13 application?
14 A Yes.
15 Q What date was that?
16 A June 23, 2000.
17 Q Is this document maintained in the ordinary course
18 of business?
19 A Yes.
20 Q Is this a public record maintained by the board?
21 A Yes.
22 Q Is it fair to say that because Dr. Francis
23 submitted his application prior to September 1,
24 2000, he did not have to come from a program

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1 designated by the ASPPB?
2 A Correct.
3 Q Did the board accept Dr. Francis's application for
4 licensure?
5 A Not initially.
6 Q Why did it not accept it initially?
7 A I'd have to look back at the documents, but my
8 guess is that they denied him based on the
9 residency requirement that was on the books.
10 Q Now, I don't want you to guess, but to your
11 understanding, was the reason he was denied
12 initially because he did not meet the residency
13 requirement?
14 A Correct.
15 Q To your understanding, why did Dr. Francis not
16 meet the board's residency requirement?
17 A I believe that the way he claimed to meet it was
18 through rather than being at the institution for a
19 year, as it says in the old regs, that he had, you
20 know, what the programs would call sort of
21 residential events where students would come
22 together at a hotel and do stuff together and call
23 that residency.
24 Q To your understanding, did the board view that as

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1 residency that met the requirements of the
2 regulation?
3 MS. GARCIA: Objection.
4 A Not in those years.
5 Q In the past, had the board recognized meetings and
6 seminars at hotels as qualifying for residency?
7 A Not specifically.
8 Q Was Dr. Francis eventually approved for licensure?
9 A Yes, he was.
10 Q To your understanding, why was he approved for
11 licensure?
12 A He appealed the board's denial. He produced
13 documentation of a physical disability that
14 affected his mobility, and the board made an
15 exception for him based on his disability.
16 Q Was it your understanding that the board approved
17 his application for licensure as a reasonable
18 accommodation under the Americans With
19 Disabilities Act?
20 MS. GARCIA: Objection.
21 A Yes.
22 Q Would Dr. Francis have qualified for licensure if
23 he did not have a disability?
24 MS. GARCIA: Objection.

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1 applied?
 2 A Well, in the production of the documents for this
 3 deposition, we came up with John Burke's
 4 application. I have no idea if Mr. Finn was
 5 involved in that, and I don't know of another.
 6 Q Do you know if the board determined whether John
 7 Burke met the residency requirements of the
 8 board's regulations?
 9 A In my review of the documents before today, I
 10 looked at that file, because I was not familiar
 11 with it, and it appeared to me that they failed to
 12 make a determination about the residency in that
 13 file. I believe a mistake was made in that file.
 14 Q But you would agree that the board did approve Dr.
 15 Burke's application for licensure as a
 16 Massachusetts psychologist?
 17 A In 1995.
 18 MR. MORENBERG: Could we mark this.
 19 (Exhibit Number 109, A Piece of
 20 John Burke's Application File dated
 21 March 20, 1995, was Marked for
 22 Identification.)
 23 Q Dr. Schwartz, I've put before you what I've marked
 24 as Exhibit 109 for identification. Do you

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1 recognize this document?
 2 A Recognize, no.
 3 Q Let me ask it a different way. Dr. Schwartz, is
 4 what I've put before you as Exhibit 109 a document
 5 that the board produced in response to my
 6 deposition subpoena?
 7 A Is that a question?
 8 Q Yes.
 9 A Say that again.
 10 Q Sure. The document that I put before you which is
 11 marked as Exhibit 109, is this a document that the
 12 board produced in response to my deposition
 13 subpoena?
 14 A Yes.
 15 Q Is this a document that the board maintained in
 16 the ordinary course of business?
 17 A Yes.
 18 Q Is this a public record maintained by the board?
 19 A Yes.
 20 Q Do you recognize what Exhibit 109 is?
 21 A Yes.
 22 Q What is it?
 23 A It is a piece of John Burke's application file, I
 24 believe.

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1 Q Were you aware that Saybrook's former president,
 2 Rudy Melone, submitted a letter on behalf of Dr.
 3 Burke in support of his application for licensure?
 4 MS. GARCIA: Objection.
 5 A Not until yesterday.
 6 Q I want to quote from the third paragraph of this
 7 letter.
 8 A I'm sorry, not yesterday. It was just the
 9 previous day I was here, was Wednesday.
 10 Q I want to quote from the last sentence of the
 11 third paragraph of this letter from Rudy Melone.
 12 "Dr. Burke and I have worked to ensure that
 13 prospective Saybrook Institute Ph.D. candidates in
 14 Massachusetts understand and keep abreast of the
 15 regulations pertaining to the practice of
 16 psychology."
 17 Based on this letter, would you agree
 18 that it appears that Saybrook was committed to
 19 keep its students abreast of Massachusetts
 20 regulations?
 21 MS. GARCIA: Objection.
 22 A The letter is dated March 20, 1995, and as of that
 23 day, it appears that way.
 24 Q Based on this statement from Dr. Melone, would you

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1 expect that Saybrook would advise its students of
 2 other regulatory changes to the extent that it was
 3 aware of them?
 4 MS. GARCIA: Objection.
 5 A I just don't have those kinds of expectations. If
 6 you expect little, you never get disappointed.
 7 Q At any time in your tenure as program coordinator
 8 for the board, have you ever had occasion to
 9 review Saybrook's academic offerings?
 10 A No. Until this deposition subpoena, I couldn't
 11 have even told you what state Saybrook was in.
 12 Q Prior to the regulatory change on May 2, 1997,
 13 would you or anyone at the board have been able to
 14 advise a Massachusetts resident whether Saybrook's
 15 program met the board's regulations?
 16 A What was the first half, prior to what?
 17 MR. MORENBERG: Can you read that back?
 18 (Court Reporter repeated last question.)
 19 A So I can answer for me. I don't know, because I
 20 don't -- you know, 5/2/97 is kind of a turning
 21 point in my memory, and stuff before that is quite
 22 foggy. I don't know what I would or wouldn't have
 23 said in the years before that, nor do I know what
 24 board members may or may not have said.

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